

AUG 10 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No. 04-708)

In re Application of:

Jonathan James Westhall

Serial No.: 10/506,559

Filed: September 2, 2006

Title: Optical Fibre Sensor Assembly

Examiner: T. Rude

Group Art Unit: 2883

Fax No.: 571-273-8300

No. Of Pages: 3

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450FACSIMILE TRANSMITTAL LETTER

Sir:

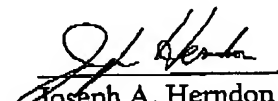
In regard to the above identified application:

1. We are transmitting herewith the attached:
  - a. Reply to the Restriction Requirement
2. With respect to fees:
  - a. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2490.
3. CERTIFICATE OF MAILING UNDER 37 CFR § 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described in paragraph 1 hereinabove, are being transmitted to the USPTO facsimile number 571-273-8300, according to 37 CFR 1.6(d) addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 10, 2006.

Respectfully submitted,

Date: August 10, 2006

By :

  
Joseph A. Herndon  
Reg. No. 50,469

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**REPLY TO THE RESTRICTION REQUIREMENT**

This is a Reply to the July 10, 2006 Restriction Requirement for the above-identified patent application. The Applicant traverses the restriction requirement for the reasons set forth below. The Applicant also includes a provisional election below.

**I. THE TRAVERSE**

The Examiner requires restriction of the claims of the above identified invention to one of a multitude of inventions. In the Restriction Requirement, the Examiner correctly indicates that the claims are to be evaluated for restriction purposes based upon unity of invention principals set forth in PCT rule 13.1. However, the examiner makes no attempt to analyze the claims for restriction purposes based upon this principal.

The examiner's restriction requirement is limited to claims 60-87 which is directed to an optical sensor and of which claim 60 is the sole independent claim. The International Search Report for this application did not identify any references that would allegedly destroy the novelty of any of the application claims. Therefore, based upon the International Search Report, the

invention of independent claim 60 possesses a special technical feature common to all remaining independent claims 61-87.

Unity of invention, therefore, exists with respect to claims 60-87 because the claims include "those [special] technical features [that] define[] a contribution which each of the inventions, considered as a whole, makes over the prior art" (See MPEP Section 1850(II)). In other words, the special technical features are the features of claim 60 because claim 60 appears to be unique over the prior art based upon the International Search Report results.

The essence of the examiner's unity of invention evaluation is that each of the individual species of each element of claim 60 defines a special technical feature. This result is inconsistent with a unity of invention analysis. For these reason the examiner should withdraw the restriction requirement and either proceed with the examination of all pending application claims or, in the alternative, point out a prior art references that destroys the Applicant's position that the combination of features of claim 60 defines a special technical feature common to all claims.


## II. THE PROVISIONAL ELECTION

The Applicant notes that the examiner did not include claims 88-98 in the restriction requirement as assume the examiner will evaluate the patentability of those claims regardless of the Applicant's election. The Applicant provisionally elects to proceed with the examination of claim 60-71, 81-82, and 88-98.

Respectfully submitted,

Date: August 10, 2006

By: \_\_\_\_\_

  
Joseph A. Herndon  
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312-913-3331